

16-1664

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CAO GROUP, INC. a Utah Corporation,

Appellant,

v.

BIOLASE TECHNOLOGY, INC., a Delaware Corporation,

Appellee.

APPEAL FROM THE UNITED STATES PATENT AND TRADEMARK
OFFICE – PATENT TRIAL AND APPEAL BOARD IN
REEXAMINATION NO. 95/002,271

**APPELLEE'S UNOPPOSED *EX PARTE* MOTION FOR EXTENSION OF
TIME TO FILE APPELLEE'S INITIAL BRIEF**

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*Counsel for Appellee, Biolase
Technology, Inc.*

MOTION

Under Federal Circuit Rule 26(b), Appellee Biolase Technology, Inc. (“Biolase”) moves for an extension of 14 days to file Appellee’s Initial Brief.

1. As required by Circuit Rule 26(b)(2), Biolase has informed all other parties that it will seek this extension and has confirmed that the requested extension is unopposed.

2. As required by Circuit Rule 26(b)(3), Biolase states that Appellant CAO Group, Inc. (“CAO”) does not object to the 14-day extension and does not oppose or plan to file an opposition, so long as it is granted a reciprocal extension of 21 days to file its initial brief.

3. As required by Circuit Rule 26(b)(4), Biolase states that (A) the date to be extended for Biolase to file its initial brief is 40 days from the date CAO files its initial brief; (B) the revised date sought for Biolase to file its initial brief is 54 days after CAO files its initial brief; (C) the number of days of extension sought is 14; (D) the total number of days of extension previously granted to the movant is zero.

4. Counsel for Biolase has conferred with counsel for CAO and both parties agree that if CAO’s requested 21-day extension is granted, there is good

cause for granting Biolase a similar extension for its brief. The agreed to reciprocal extension of 14 days also follows from principles of fairness.

5. Thus, counsel for Biolase respectfully requests that Biolase's unopposed request for a reciprocal 14-day extension be granted, thus making Biolase's brief due 54 days from the date CAO files its initial brief.

Dated: May 2, 2016

Respectfully submitted,

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*Counsel for Appellee, Biolase Technology,
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CERTIFICATE OF INTEREST

Counsel for Appellee, certifies the following:

1. The full name of ever party or amicus represented by me is Biolase Technology, Inc.
2. The name of the real party in interest is Biolase Technology, Inc.
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:
None
4. The names of all law firms and the partners or associates that appeared for the party now represented by me in the trial court or agency or are expected to appear in this court are: **Greenberg Traurig, LLP** and its attorneys:
Joshua L. Raskin, John A. Wirthlin, Gerald L. Fellows, Zahra Smith, Patrick J. McCarthy.

Date: May 2, 2016

/s/ Joshua L. Raskin

Joshua L. Raskin

CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25, I certify that on the 2nd day of May, 2016, I served the foregoing via email on the principal attorneys for each party. I also filed the foregoing with the Clerk of Court through the CM/ECF system which sent notification of such filing to the following:

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